IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

THURSDAY, THE SIXTEENTH DAY OF SEPTEMBER TWO THOUSAND AND FOUR

PRESENT
THE HON'BLE MR JUSTICE D.S.R.VARMA
WRIT PETITION NO : 11853 of 1995

Between:
1 Kintali Simhachalam, S/o.Krishna Murthy,
R/o.Kanukurthipeta, Narsannapeta Mandal,
Srikakulam Dist.
2 Kintali Rama Rao, S/o.Ammanna,
R/o.Kanukurthipeta, Narsannapeta Mandal,
Srikakulam Dist.
3 Davili Satyam, S/o.Latchanna,
R/o.Badam, Naradannapeta Mandal, Srikakulam Dist.
4 Jana Mallesu, S/o.Latchayya,
R/o.Badam, Naradannapeta Mandal, Srikakulam Dist
5 Vamala Veerabhadara Rao, S/o.Suryanarayana,
R/o.Kanukurthipeta, Narsannapeta Mandal,
Srikakulam Dist.
6 Kintali Appala Naidu, S/o.Pentayya,
R/o.Kanukurthipeta, Narsannapeta Mandal,
Srikakulam Dist.

....

PETITIONERS

AND

1 The Govt., of Andhra Pradesh, Reptd., by its Secretary,
Panchayat Raj, Rural Development and Relief

(Pts.IV)
Department, Secretariat, Hyderabad.
2 The District Collector, Srikakulam.
3 M.Neelam Naidu, R/o.Badam (V) Narasannapeta Mandal, Srikakulam District
(W.P. against R-3 is dismissed for default as per orders
of the Court on 07-1-2003)

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate writ, order or direction more particularly one in the nature of Writ of Mandamus, declaring the action of the first respondent in bifurcating Badam Gram Panchayat as two Gram Panchayats as illegal, arbitrary and by excessive exercise of jurisdiction and consequently, set aside the G.O.Rt.No.989, Panchayat Raj, Rural Development and Relief (Pts.IV) Dept, dated 2-6-195 and pass such other order or orders.

Counsel for the Petitioners: MR.B.ADINARAYANA RAO

Counsel for the Respondents 1 & 2: GOVERNMENT PLEADER FOR PANCHAYAT RAJ

The Court made the following:

ORDER**:**

Heard both sides and perused the material papers on record.

2. This writ petition is filed under Article-226 of the Constitution of India challenging the G.O.Rt.No.989, Panchayat Raj, Rural Development and Relief (Pts.IV) Department, dated 02.06.1995, bifurcating Badam Gram Panchayat into two Gram Panchayats viz., Badam and

Telagavalasa Gram Panchayats, on various grounds.

3. In the affidavit, filed in support of the writ petition, the main ground raised by the writ petitioners appears to be that the first respondent while issuing the said G.O., bifurcating the Badam Gram Panchayat into two Gram Panchayats, did not look into the orders passed by the second respondent-District Collector, Srikakulam, and notice was not issued. Initially, a Division Bench of this Court while considering the matter in W.P.M.P.No.14480 of 1995 passed an order on 28.06.1995, which reads as under: -

> "The question is whether the order of the government is after perusing the Collector's order and after giving notice. The learned counsel for the petitioners contended that the government has not issued any notice and has not followed the procedure while passing the order.
>
> We directed the Government Pleader to find out whether the order passed by the Collector was considered by the Government or not. The Government Pleader has produced the file. In the file there is no Collector's order nor is it mentioned that the order of the Collector was perused along with other records. Further, no reasons are given by the Government in its order. Therefore, there will be stay of elections."

4. It appears the expression "elections" was wrongly drafted in the above said order. In view of the prayer in the above W.P.M.P., obviously, this Court while passing the interim directions was to stay the operation of the impugned G.O.Rt.No.989, Panchayat Raj, Rural

Development and Relief (Pts.IV) Department, dated 02.06.1995.

5. From the above order, it is clear that a Division Bench of this Court at the time of passing orders in W.P.M.P.No.14480 of 1995, dated 28.061.995, has considered all the important aspects and found that the impugned G.O. issued by the Government do not contain any reasons.

6. Having regard to the said facts and circumstances pointed out by this Court in the order, dated 28.06.1995, passed in W.P.M.P.No.14480 of 1995, I do not find any need to pass any further orders in the writ petition. Hence, the order in W.P.M.P.No.14480 of 1995, dated 28.06.1995, is to be treated as the final order.

7. Accordingly, this writ petition is allowed and the impugned G.O. is set-aside with a direction to the first respondent to examine and reconsider the whole issue and pass appropriate orders, keeping in view the present situation and other relevant material on record,

giving reasons and in accordance with law. No order as to costs.

D.S.R.VARMA, J

16-09-2004
DR

That Rule nisi has been made absolute as above.
Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this Thursday, the Sixteenth day of September, Two thousand and four.

To

1 The Govt., of Andhra Pradesh, Reptd., by its Secretary,
Panchayat Raj, Rural Development and Relief (Pts.IV)
Department, Secretariat, Hyderabad.

2 The District Collector, Srikakulam.

3 Two CCs to Government Pleader for Panchayat Raj,
High Court Buildings, Hyderabad. (OUT)

4. Two CD copies.